

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

CEDEAL HARPER,

Plaintiff,

v.

CIVIL ACTION NO. 2:12-cv-04751

DAVID BALLARD, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Pending before the Court are the screening review determination for Plaintiff's Third Amended Petition/Complaint, (ECF 27), under 28 U.S.C. § 1915A, Plaintiff's Application to Proceed Without Prepayment of Fees and Costs, (ECF 1), and Plaintiff's Motion for Preliminary Injunction and/or Restraining Order, (ECF 28). By Standing Order entered on September 2, 2010, and filed in this case on August 28, 2012, this action was referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF 4.) On April 17, 2013, the referral of this action was transferred from Magistrate Judge Stanley to Magistrate Judge Dwane L. Tinsley. (ECF 21.) Magistrate Judge Tinsley filed his PF&R on June 10, 2015, in which he recommends that the Court dismiss Plaintiff's Third Amended Petition/Complaint, deny Plaintiff's Motion for Preliminary Injunction and/or Restraining Order, deny as moot Plaintiff's Application to Proceed Without Prepayment of Fees and Costs, and dismiss this action. (ECF 29.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to

which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due by June 29, 2015. To date, no objections have been filed.

Accordingly the Court **ADOPTS** the PF&R, (ECF 29), **DISMISSES** Plaintiff's Third Amended Petition/Complaint, (ECF 27), **DENIES** Plaintiff's Motion for Preliminary Injunction and/or Restraining Order, (ECF 28), **DENIES AS MOOT** Plaintiff's Application to Proceed Without Prepayment of Fees and Costs, (ECF 1), **DISMISSES** this case, and **DIRECTS** the Clerk to remove this case from the Court's docket.

**IT IS SO ORDERED.**

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: July 8, 2015



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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE